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SUBJECT: CANADIAN DIP NOTE EXPRESSES CONCERNS ABOUT
CONGESTION AT TORONTO PRECLEARANCE

1. Summary: The Canadian Department of Foreign Affairs (DFA) delivered a diplomatic note (no. NUE-0139) to Acting Econ M/C and Dept. of Homeland Security (DHS) Attache on December 22, expressing concern about congestion at the Toronto preclearance facility and requesting that DHS take steps to reduce the congestion. Text of the note is provided below in paragraph 2 and talking points used by DFA Director Bruce Levy are provided in paragraph 3. Copies of attachments referred to in the note will be forwarded to WHA/CAN and DHS. DHS Attache Considine gave Levy an update on recent measures that have been taken by DHS to address the problem of congestion (see paragraph 4). Levy expressed appreciation for those measures and said the GOC would monitor conditions at Toronto in hopes of continued improvement. Post requests that Dept provide text of a diplomatic note for response to DFA, as needed, and updates on any additional steps DHS may take to reduce congestion at the Toronto preclearance facility. End Summary.

2. TEXT OF GOC NOTE NO. NUE-0139

Foreign Affairs Canada presents its compliments to the Embassy of the United States of America and has the honour to refer to the attached materials which collectively document a serious and growing problem with congestion at preclearance facilities at Toronto, s Lester B. Pearson International Airport (PIA), Canada, s most important gateway for cross-border air travel.

The Department has the further honour to note that transborder passengers, including a large number of United States citizens and permanent residents, are experiencing substantial and growing delays when being processed through preclearance at Terminals 2 and 3 at PIA, especially at early morning peak-hour times. Delays result in long line-ups in front of the preclearance areas as well as terminal congestion, flight cancellations, missed flights and missed connections.

Canadian authorities are concerned that the Greater Toronto Airports Authority might have to ration access to preclearance during peak hours of cross-border traffic, or that United States preclearance officers might do so. Such a development would be contrary to the spirit and intent of the 2001 Agreement on Air Transport Preclearance and would hinder the ability of Canadian and United States airlines to take full advantage of the 1995 Agreement on Air Transport.

Canadian authorities recognize that United States authorities are giving serious attention to this issue. Canadian authorities also wish to express their appreciation for the efforts by United States preclearance officers to try to accommodate this congestion, including a pilot project to open preclearance a half hour earlier, that is at 4:30 a.m. at Terminal 3 on Mondays. Canadian authorities also appreciate that preclearance at Terminal 3 will open at 4:30 a.m. during the December 17-25 peak travel period. The pilot should be extended indefinitely to cover the full week and to include Terminal 2. It is clear, however, that this will not be sufficient. Canadian authorities therefore also ask that the number of preclearance officers at Terminals 2 and 3 be increased on an urgent basis. These steps should be considered as a matter of high priority to avoid a further deterioration of an already difficult situation.

Foreign Affairs Canada avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration.

Ottawa, December 22, 2004

End text of diplomatic note.

3. CANADIAN TALKING POINTS ON PRECLEARANCE CONGESTION AT TORONTO

-- We understand that CBP sent a & jump team8 to look into the preclearance congestion problem at Toronto.

-- Congestion at preclearance at Toronto, s Terminals 2 and 3 has important implications because Toronto accounts for approximately 40% of cross-border traffic and is a network

hub.

-- Average processing time at preclearance has increased since 9/11. This is understandable and by itself has not been a problem because of the sharp decline in traffic after 9/11. Recently, however, transborder traffic has recently recovered sharply.

-- The attachments to the Note are analyses of this problem by the Greater Toronto Airports Authority (GTAA), TBI Canada (the manager of Terminal 3), Air Canada and Air Transat. Each has taken a different approach but they are consistent in identifying the serious negative impact of congestion at preclearance.

-- Post-clearance would not be a practical solution because the GTAA would not be able to provide sufficient international gates or check-in counters which are already congested. The availability of landing slots at certain United States airports is also an issue.

-- Shifting flights from peak hours to off-peak hours would disrupt Canadian and US airlines, schedules. It would also be inconvenient for travelers and undermine Toronto's role as Canada's most important gateway for cross-border traffic.

-- Rationing of preclearance would raise issues of equity and competitiveness for any Canadian and US airlines that might be denied preclearance during peak hours.

-- We recognize that preclearance officers are doing their best to cope with a demanding situation. This might explain what we understand is an increasing absenteeism rate among preclearance officers. Increasing the capacity of preclearance would be beneficial to all concerned.

End text of Canadian talking points.

14. DHS RESPONSE ON CONGESTION AT TORONTO PRECLEARANCE FACILITY

In response to the Canadian diplomatic note and expression of concern, DHS Attache, John Considine, provided Levy an update on recent measures institute by DHS to address the problem of congestion at Toronto's preclearance facility. A summary of those comments follows:

-- In the last month, Customs and Border Protection (CBP) has taken vigorous action in response to problems with passenger queuing, delayed flights and missed embarkations at the preclearance operation in Toronto.

-- CBP sent a team of experienced personnel to Toronto to review operations and to determine what actions could be taken to improve service.

-- As a result of that review, CBP has replaced its top managers on site with a new team of individuals with experience in air preclearance operations, from both a customs and immigration perspective. These three individuals will be in place for 60 to 90 days until new permanent management is assigned.

-- The new managers have been tasked with taking any action necessary to ensure increased efficiency of operations while still maintaining a strong security posture. Changes in assignment of work hours and overtime, more effective use of personnel, and training of all personnel in both immigration and customs issues are among the first issues to be addressed. Twelve new inspectors have been selected to report to Toronto and are in the process of being approved for foreign assignment.

-- After improvements with the CBP workforce are under way, the new CBP managers will work with the airport and airline management to see what logistical and scheduling changes might be made to increase efficiency of the airport operations. While it is understood that flight times are chosen to optimize scheduling at both the departure and arrival airports, there are physical limits to the current configuration of the inspectional area. CBP cannot solve these delays alone.

15. Action Requested: Request that Department provide text of response to DFA's diplomatic note, as needed. Post would also appreciate continued attention to this problem by State and DHS, and updates on any additional measures that may be taken by CBP to reduce congestion at the Toronto preclearance facility.

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